

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

## **FINDINGS AND RECOMMENDATION**

This matter comes before this Court on Plaintiff's Application for Award of Attorney's Fees Under the Equal Access to Justice Act (Docket Entry #23) and Plaintiff's Application for Reimbursement of Cost and/or Expenses Under the Equal Access to Justice Act and 28 U.S.C. § 1920 (Docket Entry #24). The Applications were referred to the undersigned by Order of United States District Judge John F. Heil, III, for the entry of Findings and a Recommendation on the disposition of the Applications.

In this action under the Social Security Act, Plaintiff, through her attorney, has moved the Court for an award of attorney fees in the amount of \$4,635.80 and for the reimbursement of costs in the amount of \$400.00, pursuant to the provisions of the Equal Access to Justice Act, codified at 28 U.S.C. § 2412(d). For its response to Plaintiff's Applications, the Government states that it has no objection to Plaintiff's request for \$4,635.80 in attorney fees and \$400.00 in costs. The undersigned has reviewed

the record in this case, including Plaintiff's Applications, and concurs in the requested award of attorney fees and costs.

IT IS THEREFORE THE RECOMMENDATION OF THIS COURT that Plaintiff's Application for Award of Attorney's Fees Under the Equal Access to Justice Act (Docket Entry #23) and Plaintiff's Application for Reimbursement of Cost and/or Expenses Under the Equal Access to Justice Act and 28 U.S.C. § 1920 (Docket Entry #24) be **GRANTED**, and that the Government be ordered to pay Plaintiff's attorney fees in the amount of \$4,635.80 and costs in the amount of \$400.00.

IT IS FURTHER RECOMMENDED that in accordance with the ruling of the Tenth Circuit Court of Appeals, the award shall be made to Plaintiff as the prevailing party and not directly to Plaintiff's counsel. *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007); 28 U.S.C. § 2412(b). In addition, should Plaintiff's counsel ultimately be awarded attorney fees pursuant to 42 U.S.C. § 406(b)(1), counsel shall refund the smaller amount to Plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986). The parties are given fourteen (14) days from the date of the service of these Findings and Recommendation to file with the Clerk of court any objections with a supporting brief. Failure to object to the Findings and Recommendation within fourteen (14) days will

preclude appellate review of this decision by the District Court based on the findings made herein.

DATED this 12th day of October, 2021.



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KIMBERLY E. WEST  
UNITED STATES MAGISTRATE JUDGE